

In re Application of: Christoph KIRSCH, et al.
Confirmation No.: 3234
Application No.: 09/831,272
Page - 2 -

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Withdrawn). A chimeric promoter capable of mediating local gene expression in plants upon pathogen infection comprising
 - (1) at least two *cis*-acting elements sufficient to direct elicitor-specific expression comprising the nucleotide sequence of SEQ ID NOS: 3 or 4, wherein a spacer region composed of 4 to 10 base pairs separates at least two of said *cis*-acting elements, and
 - (ii) a minimal promoter.
2. (Currently amended). A chimeric promoter capable of mediating local gene expression in plants upon pathogen infection comprising
 - (i) two or more *cis*-acting elements sufficient to direct elicitor-specific expression of a nucleic acid sequence, wherein a *cis*-acting elicitor responsive element comprises consists of a nucleotide sequence of SEQ ID NO: 11, and
 - (ii) a minimal promoter.
3. (Previously Presented). The chimeric promoter of claim 2, further comprising a *cis*-acting element having the nucleotide sequence of SEQ ID NO: 1 or 2.
4. (Withdrawn). The chimeric promoter of claim 1, wherein said chimeric plant promoter comprises homo- and/or hetero-multimeric forms of said *cis*-acting element(s).
5. (Withdrawn). The chimeric promoter of claim 1, wherein said multimeric form is a dimer or tetramer.

{WP294463;1}

In re Application of: Christoph KIRSCH, et al.
Confirmation No.: 3234
Application No.: 09/831,272
Page - 3 -

6. (Withdrawn). The chimeric promoter of claim 1, wherein the minimal promoter is derived from the CaMV35S promoter, CHS promoter, PR1 promoter, or *hcbr2* promoter.
7. (Withdrawn). The chimeric promoter of claim 1, wherein the distance between said *cis*-acting element and said minimal promoter is 12 to 300 base pairs, more preferably 25 to 70 base pairs, and most preferably 40 to 60 base pairs.
8. (Original). The chimeric promoter of claim 2, wherein a spacer region composed of 4 to 10 base pairs separates at least two of said *cis*-acting elements.
9. (Original). The chimeric promoter of claim 3, wherein at least two of said multimeric forms are separated by a spacer of between about 50 to 1000 base pairs.
10. (Withdrawn). The chimeric promoter of claim 1, wherein the induction of gene expression upon elicitor treatment or pathogen infection is at least 15-fold.
11. (Withdrawn). A recombinant gene comprising the chimeric promoter of claim 1.
12. (Withdrawn). The recombinant gene of claim 11, wherein the chimeric promoter is operatively linked to a heterologous DNA sequence.
13. (Withdrawn). The recombinant gene of claim 11 or 12, wherein at least one of said *cis*-acting elements is located in the 5'- or 3'-untranslated region or in an intron of the recombinant gene.
14. (Withdrawn). The recombinant gene of claim 12, wherein said heterologous DNA sequence encodes a (poly)peptide, cytotoxic protein, antibody, antisense RNA, sense RNA, ribozyme, transcription factor, protease, nuclease, lipase, or polymerase.

{WP294463;1}

In re Application of: Christoph KIRSCH, et al.

Confirmation No.: 3234

Application No.: 09/831,272

Page - 4 -

15. (Withdrawn). A vector comprising the chimeric promoter of claim 1 or the recombinant gene of claim 11.
16. (Withdrawn). A method for the production of transgenic plants, plant cells or plant tissue comprising the introduction of a chimeric promoter of claim 1, a recombinant gene of claim 11 or the vector of claim 15 into the genome of said plant, plant cell or plant tissue.
17. (Withdrawn). Plant cells comprising a chimeric promoter of claim 1, the recombinant gene of claim 11 or the vector of claim 15 or obtainable by the method of claim 16.
18. (Withdrawn). A transgenic plant or plant tissue comprising plant cells of claim 17.
19. (Withdrawn). The transgenic plant of claim 18, which upon the presence of the chimeric promoter or the recombinant gene attained resistance or improved resistance against a pathogen the corresponding wild-type plant was susceptible to.
20. (Withdrawn). Harvestable parts of a transgenic plant of claim 18 or 19 comprising plant cells of claim 17.
21. (Withdrawn). Propagation material of a transgenic plant of claim 18 or 19 comprising plant cells of claim 17.
22. (Currently amended). A *cis*-acting element sufficient to direct elicitor-specific expression ~~comprising~~ consisting of the nucleotide sequence of SEQ ID NO: 11.

{WP294463,1}

In re Application of: Christoph KIRSCH, et al.

Confirmation No.: 3234

Application No.: 09/831,272

Page - 5 -

23. (Withdrawn). A method for the identification of an activator or inhibitor of genes specifically expressed in plants upon pathogen infection comprising the steps of:

(a) providing a plant, plant cell, or plant tissue comprising a recombinant DNA molecule comprising a readout system operatively linked to the chimeric promoter of claim 1;

(b) culturing said plant cell or tissue or maintaining said plant in the presence of a compound or a sample comprising a plurality of compounds under conditions which permit expression of said readout system;

(c) identifying or verifying a sample and compound, respectively, which leads to suppression or activation and/or enhancement of expression of said readout system in said plant, plant cell, or plant tissue.

24. (Withdrawn). The method of claim 23 further comprising the step of

(d) subdividing the samples identified in step (c) and repeating steps (a) to (c) one or more times.

25. (Withdrawn). The method of claim 23 or 24 further comprising the step of

(e) identifying and/or isolating from the identified sample the compound responsible for said suppression or activation and/or enhancement of expression of said readout system in said plant, plant cell, or plant tissue.

26. (Withdrawn). The method of claim 23, wherein

(a) said recombinant DNA molecule is a recombinant gene of claim 11 or a vector of claim 15;

(b) said plant cell is a plant cell of claim 17,

(c) said plant tissue is a plant tissue of claim 18, or

(d) said plant is a plant of claim 18.

{WP294463;1}

In re Application of: Christoph KIRSCH, et al.

Confirmation No.: 3234

Application No.: 09/831,272

Page - 6 -

27. (Withdrawn). A method for preparing a plant elicitor comprising the steps of the method of claim 23 and formulating the compound obtained or identified in step (c) or (e) in a form suitable for the application in agriculture or plant cell and tissue culture.

28. (Withdrawn). A compound obtained or identified by the method of claim 23 which is an activator or inhibitor of gene expression and, or function in plants.

29. (Withdrawn). An antibody specifically recognizing the compound of claim 28 or the *cis*-acting element of claim 22.

30. (Withdrawn). A diagnostic composition comprising a chimeric promoter of claim 1, the recombinant gene of claim 11, the vector of claim 15, the compound of claim 28 or the antibody of claim 29, and optionally suitable means for detection.

31. (Withdrawn). A kit comprising a chimeric promoter of claim 1, the recombinant gene of claim 11, the vector of claim 15, the compound of claim 28 or the antibody of claim 29.

32. (Withdrawn). A plant protection composition comprising the compound of claim 28.

33. (Withdrawn). Use of a *cis*-acting element sufficient to direct elicitor-specific expression, a chimeric promoter of claim 1, the recombinant gene of claim 11, the vector of claim 15, the *cis*-acting element of claim 22 and/or the compound of claim 28 for the production of pathogen resistant plants.

34. (Withdrawn). Use of a *cis*-acting element sufficient to direct elicitor-specific expression, the chimeric promoter of claim 1, a recombinant gene of claim 11, a vector of claim 15, the plant cell of claim 17, the plant tissue of claim 18, or the plant of claim 18

{WP294463;1}

In re Application of: Christoph KIRSCH, et al.

Confirmation No.: 3234

Application No.: 09/831,272

Page - 7 -

or identifying and/or producing compounds capable of conferring induced resistance to a pathogen in a plant.

35. (Withdrawn). A method of rendering a gene responsive to pathogens comprising inserting at least one *cis*-acting element sufficient to direct elicitor-specific expression into the promoter of said gene.

36. (Withdrawn). A method for preparing a promoter capable of mediating local gene expression in plants upon pathogen infection comprising operably linking a *cis*-acting element sufficient to direct elicitor-specific expression to a transcription initiation sequence of a promoter.

37. (Withdrawn). The method of claim 35, wherein said *cis*-acting element is a *cis*-acting element as defined in claim 2 or a multimeric form thereof as defined in claim 4.

38. (Withdrawn). The method of claim 35, further comprising deleting non-specific *cis*-acting elements in the promoter.

39. (Original). The promoter obtainable by the method of claim 35.

40. (Withdrawn). Use of the compound of claim 28 as plant protective agent or herbicide.

41. (Cancelled).

42. (Currently amended). The chimeric promoter according to claim 2, wherein said at least one *cis*-acting elicitor responsive element comprises at least one nucleotide sequence of SEQ ID NO: 11 and at least one nucleotide sequence of SEQ ID NO: 7.

{WP294463;1}

In re Application of: Christoph KIRSCH, et al.
Confirmation No.: 3234
Application No.: 09/831,272
Page - 8 -

43. (Original). The chimeric promoter according to claim 42, wherein said at least one cis-acting element comprises two nucleotide sequences of SEQ ID NO: 11 and two nucleotide sequences of SEQ ID NO: 7.

44. (Original). A recombinant gene comprising the chimeric promoter of claim 42 or claim 43.

45. (Original). A vector comprising the chimeric promoter of claim 42 or claim 43.

46. (Withdrawn). A method for the production of transgenic plants, plant cells or plant tissue comprising the introduction of a chimeric promoter according to claim 42 or 43, into the genome of said plant, plant cell or plant tissue.

{WP294463:1}